

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, FEBRUARY 26, 2021

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APPLICATION OF

CENTURYLINK COMMUNICATIONS, LLC

CASE NO. PUR-2021-00037

For designation as an eligible
telecommunications carrier

ORDER FOR NOTICE AND COMMENT

On February 17, 2021, CenturyLink Communications, LLC ("CenturyLink") filed an application ("Application") with the State Corporation Commission ("Commission") pursuant to 47 U.S.C. § 214(e), seeking that the Commission enter an order designating CenturyLink as an eligible telecommunications carrier ("ETC") in order to receive federal universal service fund support in specific areas of the Commonwealth of Virginia through the Rural Digital Opportunity Fund ("RDOF") of the Federal Communications Commission ("FCC").¹

According to the Application, CenturyLink's ultimate parent company, CenturyLink, Inc. (n/k/a Lumen), was the winning RDOF bidder as announced by the FCC on December 7, 2020, and assigned the winning bids to its certificated affiliates in Virginia for implementation.² CenturyLink states that some of the assigned RDOF Census Blocks, however, fall outside the authorized service areas for those affiliates.³ CenturyLink states that it therefore seeks to be designated as an ETC in those 197 census block areas in Virginia ("Incremental CBs").⁴

¹ CenturyLink requests that the Commission enter an order designating it an ETC by June 1, 2021, given the FCC's deadline of June 7, 2021, for state commission action on ETC requests. Application at 1, 8.

² *Id.* at 2.

³ *Id.*

⁴ *Id.*

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CenturyLink further states that it seeks ETC designation to provide the RDOF supported services in designated portions of the counties of Campbell, Hanover, Madison, and Rockbridge, Virginia.⁵

CenturyLink is a competitive local exchange carrier authorized to provide local exchange and interexchange telecommunications services in the Commonwealth of Virginia pursuant to certificates of public convenience and necessity issued by the Commission.⁶ CenturyLink states that designating it as an ETC in the Incremental CBs will allow it, either directly or through its affiliates, to bring voice and broadband internet access services to consumers in the Incremental CBs, thus advancing the goals of universal service under the FCC's RDOF program.⁷

In support of its Application, CenturyLink states that it is a common carrier for purposes of ETC designation and that it plans to offer the services stipulated by RDOF in the Incremental CBs using either its own facilities or a combination of its own facilities and resale of another carrier's or affiliate's facilities and services.⁸ According to the Application, those services include voice telephone service and broadband services consistent with the FCC's RDOF rules, and Lifeline services for low-income consumers consistent with FCC requirements.⁹ CenturyLink states that it plans to advertise the availability of such services and the charges using media of general distribution.¹⁰

⁵ *Id.* at 2, Exhibit B.

⁶ *Id.* at 3, 4; *see also*, *Application of Qwest Communications Company, LLC, For reissuance of certificates of public convenience and necessity to reflect a corporate name change*, Case No. PUC-2014-00022, 2014 S.C.C. Ann. Rept. 222, Order Reissuing Certificates (June 27, 2014).

⁷ Application at 7.

⁸ *Id.* at 5-6.

⁹ *Id.* at 6.

¹⁰ *Id.*

NOW THE COMMISSION, upon consideration of the Application and applicable law, is of the opinion and finds that, consistent with prior orders in similar proceedings involving certificated carriers providing telecommunications services in the Commonwealth, local exchange carriers ("LECs") and other interested persons or entities should have an opportunity to file comments, objections, or requests for hearing on the Application.¹¹ We direct CenturyLink to email a copy of this Order for Notice and Comment to all LECs certificated to provide service in Virginia. We also direct the Company to provide a copy of the Application to anyone so requesting. Further, we find that any objections to the CenturyLink's Application should include a statement of the reasons for such opposition, and if the objection is related to a specific territory, that territory should be clearly defined. We find that requests for hearing shall state with specificity why such concerns cannot be adequately addressed in written comments or objections. Finally, we find that the Staff of the Commission ("Staff") should investigate the Application and present its findings and recommendations in a report ("Staff Report").

¹¹ See, e.g., *Commonwealth of Virginia, ex rel, State Corporation Commission, Ex Parte, in re: Implementation of Requirements of § 214 (e) of the Telecommunications Act of 1996, and Application of Cox Virginia Telcom, L.L.C., For designation as an eligible telecommunications carrier under 47 U.S.C. § 214 (e)*, Case Nos. PUC-1997-00135 and PUC-2012-00059, Doc. Con. Cen. No. 121119018, Order Requesting Comments, Objections, or Requests for Hearing (Nov. 1, 2012) (noting that the Commission established Case No. PUC-1997-00135 to consider the requests of local exchange carriers to be designated as ETCs to receive universal support pursuant to the U.S. Code and associated federal regulations); *Application of RiverStreet Communications of Virginia, Inc., For designation as an eligible telecommunications carrier*, Case No. PUR-2018-00172, Doc. Con. Cen. No. 181120210, Order for Notice and Comment (Nov. 7, 2018); *Application of Cox Virginia Telcom, L.L.C., Application for eligible telecommunications carrier designation*, Case No. PUR-2021-00002, Doc. Con. Cen. No. 210110178, Order for Notice and Comment (Jan. 11, 2021); *Application of Shenandoah Cable Television, LLC, For designation as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e)*, Case No. PUR-2020-00275, Doc. Con. Cen. No. 210120029, Order for Notice and Comment (Jan. 14, 2021).

The Commission further takes judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels.¹² The Commission has taken certain actions, and may take additional actions going forward, that could impact the procedures in this proceeding.¹³ Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of pleadings herein, unless they contain confidential information, and require electronic service on parties to this proceeding.

Accordingly, IT IS ORDERED THAT:

- (1) This case is docketed and assigned Case No. PUR-2021-00037.
- (2) All pleadings, briefs, or other documents required to be served in this matter shall be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice").¹⁴ Confidential and

¹² See, e.g., Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Governor Ralph S. Northam. See also Executive Order No. 53, Temporary Restrictions on Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12 Schools Due to Novel Coronavirus (COVID-19), issued March 23, 2020, by Governor Ralph S. Northam, and Executive Order No. 55, Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19), issued March 30, 2020, by Governor Ralph S. Northam. These and subsequent Executive Orders related to COVID-19 may be found at: <https://www.governor.virginia.gov/executive-actions/>.

¹³ See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020) ("Revised Operating Procedures Order"), *extended by* Doc. Con. Cen. No. 200520105, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020).

¹⁴ 5 VAC 5-20-10 *et seq.*

Extraordinarily Sensitive Information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.¹⁵

(3) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(4) On or before March 15, 2021, CenturyLink shall provide a copy of this Order for Notice and Comment by email to each local exchange telephone carrier certificated in Virginia. A list of the current email address on file with Commission for each of the current local exchange carriers in Virginia is attached as Appendix A to this Order.

(5) CenturyLink shall respond promptly to requests from interested persons or entities for copies of the Application and shall provide one copy free of charge. An electronic copy may be obtained by submitting a written request to counsel for CenturyLink: Zsuzsanna E. Benedek, Esquire, CenturyLink Communications, LLC, 240 North Third Street, Suite 300, Harrisburg,

¹⁵ As noted in the Revised Operating Procedures Order, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may not be processed for an indefinite period of time due to the COVID-19 emergency.

Pennsylvania 17101, sue.benedek@lumen.com. Interested persons may download unofficial copies from the Commission's website: scc.virginia.gov/pages/Case-Information.

(6) On or before March 29, 2021, CenturyLink shall file with the Commission proof of the service ordered in Ordering Paragraph (4).

(7) On or before April 5, 2021, any person desiring to comment on CenturyLink's Application may do so electronically by following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments, or by filing such comments with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. A copy thereof shall be served on counsel for CenturyLink at the address in Ordering Paragraph (5).

(8) On or before April 5, 2021, any person or entity may file objections to CenturyLink's Application by filing such objections with the Clerk of the Commission at: scc.virginia.gov/clk/efiling/, or by filing an original and fifteen (15) copies of the objections with the Clerk of the Commission at the physical address set forth in Ordering Paragraph (7). Any objections to the Company's Application shall include a statement of the reasons for such opposition, and if the objection is related to a specific territory, that territory shall be clearly defined. Filed objections shall reference Case No. PUR-2021-00037. A copy thereof shall be served on counsel for CenturyLink at the address in Ordering Paragraph (5).

(9) On or before April 5, 2021, any person or entity may request that the Commission convene a hearing on the Company's Application by filing a request for a hearing with the Clerk of Commission at: scc.virginia.gov/clk/efiling or an original and fifteen (15) copies of the request for hearing with the Clerk of the Commission at the physical address set forth in Ordering Paragraph (7). Requests for hearing shall reference Case No. PUR-2021-00037 and shall include: (i) a precise statement of the interest of the filing party; (ii) a statement of the

specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in the matter. A copy thereof shall be served on counsel for CenturyLink at the address in Ordering Paragraph (5).

(10) On or before April 5, 2021, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation with the Clerk of the Commission at: scc.virginia.gov/clk/efiling or an original and fifteen (15) copies with the Clerk of the Commission at the physical address set forth in Ordering Paragraph (7). Such notice of participation shall include the email addresses of such parties or their counsel. The respondent shall serve a copy of the notice of participation on counsel to the Company at the address in Ordering Paragraph (5). Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2021-00037.

(11) The Staff shall investigate the Company's Application and present its findings and recommendations in a Staff Report to be filed on or before April 28, 2021.

(12) On or before May 7, 2021, CenturyLink may file responses to the Staff Report and to any comments, objections, or requests for hearing filed with the Commission. If not filed electronically, an original and fifteen (15) copies of any responses shall be submitted to the Clerk of the Commission at the address in Ordering Paragraph (7). A copy of the response shall be served upon the Staff and on any persons or entities who filed comments, objections, or requests for hearing.

(13) All documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(14) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories to parties or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within seven (7) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically, or by facsimile, on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to Staff. Except as modified above, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(15) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to:
 Zsuzsanna E. Benedek, Esquire, CenturyLink Communications, LLC, 240 North Third Street, Suite 300, Harrisburg, Pennsylvania 17101, sue.benedek@lumen.com; Derek Kelly, State Regulatory Affairs Director; 150 Fayetteville Street Mall, Suite 970, Raleigh, North Carolina 27601, derek.t.kelly@lumen.com; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219, MBrowder@oag.state.va.us.

LEC Phone Companies

Company	Regulatory Contact	Email
Access One of Virginia, Inc.	Julie May	jmay@accessoneinc.com
ACN Communication Services Virginia, L.L.C.	Jeremy Smuckler	jismuckle@acninc.com
Airespring Virginia LLC	Cynthia Firstman	cat@airespring.com
Airus Virginia, Inc.	John McCluskey	jmccluskey@airustel.com
All Points Carrier Services, LLC	James Carr	business@allpointsbroadband.com
Allied Telecom Group, LLC	Ken Williams	kwilliams@alliedtelecom.net
AMCS Networking Services LLC	Robert Stankey	robertstankey@dwtd.com
Amelia Telephone Corporation	Bruce Mottern**	bruce.mottern@tdstelecom.com
AOC Connect, LLC	Michelle Silvia	msilvia@aocwins.com
AT&T Communications of Virginia, LLC	Sally Briar	sb1621@att.com
ATC Outdoor DAS, LLC	Lauren M Ramirez	Lauren.Ramirez@americantower.com
Atlantech Online of Virginia, L.L.C.	Ed Fineran	efineran@atlantech.net
Atlantic Broadband Enterprise LLC	Leslie Brown	lbrown@atlanticbb.com
ATX Telecommunications Services of Virginia, LLC	Steve Bogdan**	sbogdan@broadviewnet.com
Bandwidth.com CLEC, LLC	W. Christopher Matton	cmatton@bandwidth.com
BCM ONE, Inc.	Sadia Mendez	Smendez@bcmone.com
BIT Networks, LLC	James Patrick Guy II	jguy@MECKELEC.ORG
Broadview Networks of Virginia, Inc.	Steve Bogdan **	sbogdan@broadviewnet.com
Broadvox-CLEC, LLC	Susan Cramer-Rapinz	ag@gertsburglaw.com
Broadwing Communications, LLC	Derek Kelly **	derek.t.kelly@centurylink.com
BullsEye Telecom of Virginia, LLC	David Bailey	dbailey@bullseyetelecom.com
Burke's Garden Telephone Company,. Inc.	Fred Lawless	fblawless@bgtco.net
Business Telecom of Virginia, Inc.	Becky West**	Becky.West@windstream.com
Cavalier Broadband, LLC	Anthony O'Brien	tony@helixsystems.com
Cavalier Telephone, L.L.C.	Becky West**	Becky.West@windstream.com
CBTS Virginia LLC	Ted Heckmann	Ted.heckmann@cinbell.com

Cebridge Telecom VA, LLC	Dennis Moffit	dennis.moffit@suddenlink.com
Central Telephone Company of Virginia	Derek Kelly**	derek.t.kelly@centurylink.com
CenturyLink Communications, LLC	Derek Kelly**	Derek.t.kelly@centurylink.com
Charter Fiberlink VA-CCO, LLC	Betty Sanders	betty.sanders@charter.com
Citizens Telephone Cooperative	J. Gregory Sapp	gregsapp@citizens.coop
City of Danville d/b/a Danville Dept of Utilities	Jason Grey	greyjc@danvilleva.gov
City of Franklin	Zachary Wright	zwright@franklinva.com
City of Manassas	Tony H. Dawood	tdawood@ci.manassas.va.us
City of Martinsville	Michael A. Scaffidi	mscaffidi@ci.martinsville.va.us
City of Radford	Tim Logwood	Tim.Logwood@radfordva.gov
City of Salem	A. K. Briele	abriele@salemva.gov
Clear Rate Telecom, L.L.C.	Kelsey Cooke	legal@clearrate.com
Comcast Business Communications of VA, LLC	John Conwell**	John_Conwell@comcast.com
Comcast Phone of Virginia, LLC	John Conwell**	John_Conwell@comcast.com
Communication Tech. Carrier Services, Inc.	Joseph E. Fergus	jfergus@comtechnologies.com
Conterra Ultra Broadband, LLC	Tanya Gardner	tgardner@conterra.com
Coretel Virginal LLC	Christopher Van De Verg	chris@coretel.net
Cox Virginia Telcom, L.L.C.	Robert J. Howely	Robert.howley@cox.com
CPV Communications Company	Louis A. Lombardi	llombardijr@cpvcom.net
Crexendo Business Solutions of Virginia, Inc.	Jeffrey G. Korn	jkorn@crexendo.com
Crown Castle Fiber LLC	Fernanda Biehl	fernanda.biehl@crowncastle.com
CTC Communications of Virginia, Inc.	Becky West**	Becky.West@windstream.com
Dark Fiber and Infrastructure, LLC	Judd Carothers	judd@fiberandconduit.com
Data Stream Telecom of Virginia, Inc.	Christopher Helbert	chris@americanclec.com
dishNET Wireline L.L.C. of Virginia	Tamara Volmer	tamara.volmer@dish.com
Down Under Communications, LLC	Daryl Dunbar	Daryl@Downunderc.com
EarthLink Business, LLC	Becky West**	Becky.West@windstream.com

EMPOWER Telecom, Inc.	James Patrick Guy II	jguy@MECKELEC.ORG
eNetworks, LLC	Gina Lawrence	Gina.lawrence@essentia-inc.com
EnTelegent Solutions of Virginia, Inc.	Michael Ruziska Tom Turpin	Michael.ruziska@entelegent.com and Tom.Turpin@entelegent.com
EUREKA TELECOM OF VA, INC.	Steve Bogdan**	sbogdan@broadviewnet.com
ExteNet Asset Entity, LLC	Brian Kirk	bkirk@extenetsystems.com
ExteNet Systems (Virginia) LLC	H. Anthony Lehv	alehv@extenetsystems.com
Fiber Connect LLC	Clifford Paul	cpaul@fiber-connect.com
Fiber Roads, LLC	Jeffrey W. Cornejo	regulatory@fiberroads.com
FiberLight of Virginia, LLC	Jessica Davila	Jessica.davila@fiberlight.com
FiberNet of Virginia, Inc.	Steven Hamula	hamulas@lumosnet.com
First Communications, LLC	Shannon Dieringer	sdieringer@firstcomm.com
France Telecom Corporate Solutions L.L.C.	Joe Topel	joe.topel@orange.com
Frontier Communications of Virginia, Inc.	Angela McCall	angie.mccall@ftr.com
Fusion Communications, LLC	Ronald A. Sheehan**	Ronald.Sheehan@fusionconnect.com
Fusion Connect LLC (Used in VA by: Fusion LLC)	Ronald A. Sheehan**	Ronald.Sheehan@fusionconnect.com
GC Pivotal, LLC	Kevin Sullivan	Kevin.Sullivan@gtt.net and tax@gtt.net
GCR Telecommunications, Inc.	Glenn C. Ratliff	GCR@GCRCompany.com
GetGo Communications Virginia LLC	Victor Bunaev	victor.bunaev@logmein.com
Global Crossing Telemanagement VA, LLC	Derek Kelly**	derek.kelly@centurylink.com
Goff Network Technologies - Virginia, Inc.	Matthew Van Hoesen	Matthew.VanHoesen@usa-groups.com
Granite Telecommunications, LLC	Paula Foley	Paula.Foley@granitenet.com
Highland Telephone Cooperative	Ruth Newman	newmanr@htcnet.org
Hudson Fiber Network (Virginia) LLC	Brian Kirk	compliance@util.extenetsystems.com
IDT America of Virginia, LLC	John Peterson	john.peterson@IDT.net
iGo Technology, Inc.	Terri Firestein	tfirecgg@myactv.net
InfoHighway of Virginia, Inc.	Becky West**	Becky.West@windstream.com

Intellifiber Networks, LLC	Becky West**	Becky.West@windstream.com
Intrado Safety Communications of Virginia Inc.	Mary Jane Rasher	mrasher@intrado.com
Kinex Telecom, Inc.	Jim Garrett	jgarrett@kinextel.com
Level 3 Communications of Virginia, Inc.	Derek Kelly**	derek.t.kelly@centurylink.com
Level 3 Communications, LLC	Derek Kelly**	derek.t.kelly@centurylink.com
Level 3 Telecom of Virginia, LLC	Derek Kelly**	derek.t.kelly@centurylink.com
Ligado Networks Inc. of Virginia	Amy Crawford	amy@ligado.com and compliance@ligado.com
Lingo Communications of Virginia, Inc.	Alex Valencia	Alex.Valencia@lingo.com
LMK Communications, LLC	Tim Pressley**	Tim.Pressley@nscom.com
Local Access LLC	Robert Russell	brussell@localaccessholdings.com
Lumos Networks Inc.	Tim Pressley**	Tim.Pressley@nscom.com
Lumos Telephone Inc.	Tim Pressley**	Tim.Pressley@nscom.com
Lumos Telephone of Botetourt Inc.	Tim Pressley**	Tim.Pressley@nscom.com
Matrix Telecom of Virginia, LLC	Alex Valencia	Alex.valencia@lingo.com
MCC Telephony of the Mid-Atlantic, LLC	Anne Sokolin-Maimon	amaimon@mediacomcc.com
MCImetro Access Transmission Services of Virginia Inc.	Jan Chesney	jan.chesney@verizon.com
Maverick Virginia Infrastructure, LLC	Bryan McNally	Bmcnally@maverickcorporation.com
MetroDuct Systems VA LLC	Joseph G. Blake	jgblake@teamfishel.com
Metro Fiber Networks, Inc.	Gary Tarpley and Courtney Tarpley	Gary.Tarpley@MetroNetInc.com Courtney.Tarpley@MetroNetInc.com
Metropolitan Network Services, Inc.	Robert Jones	rjones@jucinc.net
MetTel of VA, Inc.	Andoni Economou	aeconomou@mettel.net
MGW Networks, L.L.C.	R. Craig Smith**	rcraigsmith@mgwnet.com
MGW Telephone Company Inc.	R. Craig Smith**	rcraigsmith@mgwnet.com
Mikrotec Communications of Virginia, LLC	James Campbell	jcamp@mis.net
Mobilitie, LLC	Cyndia Moreno	cyndia@mobilitie.com
MountaiNet Telephone Company	Gwen Godsey	GwenG@mounet.com
Network Innovations Virginia, Inc.	Maria I. Arteaga	marteaga@nitelusa.com

Neutral Tandem LLC-Virginia LLC	Richard Monto	rmonto@neutraltandem.com
New Castle Telephone Company	Bruce Mottern**	bruce.mottern@tdstelecom.com
New Century Telecom, Inc.	Kayrn Bartel	karenlbartel@gmail.com
New Hope Telephone Cooperative	Timothy M. Harris	timharris@newhopetel.com
New Horizons Communications of Virginia, Inc.	Glen E. Nelson	gnelson@nhcgrp.com
NextGen Communications, Inc	Bruce A. White	TCSRegulatoryCompliance@telecomsys.com
NGA 911, L.L.C.	Don Ferguson	don@nga911.com
NOS Communications, Inc.	Jessica Renneker	Jrenneker@aninetworks.com
One Voice Communications, Inc.	James K. Dize	kdize@onevoiceinc.com
Onvoy LLC	Mary Buley	mary.buley@onvoy.com
OpenBand of Virginia, LLC	Ashley Jackson	Ashley.Jackson@mcdean.com
PaeTec Communications of Virginia, Inc.	Becky West**	Becky.West@windstream.com
Peerless Network of Virginia, LLC	Patrick Phipps	pphipp@peerlessnetwork.com
PEG Bandwidth VA, LLC	Jeffrey Strenkowski	jeffrey.strenkowski@uniti.com
Pembroke Telephone Cooperative	Tony Eaton	aceaton@pemt.net
Peoples Mutual Telephone Company Inc.	Tim Tribble	timtribble@wilkestmc.net
PNG Telecommunications of Virginia, LLC	Sharon Porter	Sporter@powernetco.com
QuantumShift Communications of Virginia, Inc.	Scott A. Sterling	sssterling@americanrepartners.com
Qwest Communications Corporation of Virginia	Derek Kelly**	derek.t.kelly@centurylink.com
RiverStreet Communications of Virginia, Inc.	Tim Tribble	Timtribble@myriverstreet.net
RiverStreet Wireless of Virginia Inc.	Eric Cramer	ericcramer@myriverstreet.net
Scott County Telephone Cooperative	William J. Franklin	billfranklin@sctc.org
Shenandoah Cable Television, LLC	Keili Young	Keili.Young@emp.shentel.com and chris.kyle@emp.shentel.com
Shenandoah Telephone Company	Chris Kyle	Keili.Young@emp.shentel.com and chris.kyle@emp.shentel.com

SILVER DISTRICT COMMUNICATIONS L.L.C.	Steve Schulte	steve.schulte@brambleton.com
Single Source Integrated Services, Inc.	Court Sandstrom	csandstrom@singlesource.net
Spectrotel of Virginia, LLC	Vanessa Leon	vanessa.leon@spectrotel.com
Sprint Communications Company of Virginia, Inc.	Bill Atkinson	Bill.atkinson@sprint.com
SQF, LLC	Nicholas Bournakel	nbournakel@tilsontech.com
Starpower Communications, LLC	Joseph O. Kahl	joseph.kahl@rcn.net
Summit Infrastructure Group, LLC	Lee Grant**	lgrant@SummitIG.com
SummitIG, LLC	Lee Grant**	lgrant@SummitIG.com
Sunset Digital Communications, LLC	Ryan Elswick**	ryanelswick@gmail.com
Sunset Digital Communications (DE), LLC	Chad Wachter**	cwachter@itchold.com
Sunset Fiber (DE), LLC	Chad Wachter**	cwachter@itchold.com
Sunset Fiber, LLC	Ryan Elswick**	ryanelswick@gmail.com
Talk America of Virginia, LLC	Becky West**	Becky.West@windstream.com
Talk America, LLC	Becky West**	Becky.West@windstream.com
Telco Experts, LLC	Adam Goldberg	Adam@telcoexperts.com
TelCove Operations, LLC	Derek Kelly**	derek.kelly@centurylink.com
Teleport Communications America, LLC	Sally Briar	sb1621@att.com
Teliax Virginia, LLC	David Aldworth	daldworth@teliax.com
Tenebris Fiber LLC	Tsungi Conn	uzurishani@twc.com
Tier 1 Fiber, LLC	Richelle Johnson	rjohnson@fibernetworkservices.com
TIME CLOCK SOLUTIONS, LLC	Vance Witt	compliance@yourtimeclocksolution.com
Time Warner Cable Information Services (Virginia), LLC	Lynn Notarianni	Lynn.Notarianni@charter.com
Town of Bedford	Elvin Ray Epting	eepting@bedfordva.gov
Town of Front Royal	Jonathan McMahon	jmcmahon@frontroyalva.com
Trans National Communications International of Virginia, LLC	Erik Robinson	regulatory@tncii.com
Triton Networks, LLC	Danielle Heard	dheard@tritonnet.com
Unite Private Networks, L.L.C.	Kevin M. Anderson	kevin.anderson@upnllc.com

United Federal Data of Virginia, LLC	Christopher Lodge	chris@ufd.com
United Telephone Southeast LLC	Derek Kelly**	derek.t.kelly@centurylink.com
US LEC of Virginia L.L.C.	Becky West**	Becky.West@windstream.com
Verizon Select Services of Virginia Inc.	Dayanara Fierro	Dayanara.fierro@verizon.com
Verizon South Inc.	Regina Hutchinson**	cortez.hutchinson@verizon.com
Verizon Virginia LLC	Regina Hutchinson**	cortez.hutchinson@verizon.com
Vero Fiber Networks, LLC	Scott Beer	sbeer@veronetworks.com
Vesta Solutions of Virginia, Inc.	Karen Wolf	karen.wolf@motorolasolutions.com
Virginia Global Communications Systems, Inc.	Dusan Janjic	djanjic@rockbridge.net
Virginia Telephone Company	Bruce Mottern**	bruce.mottern@tdstelecom.com
Vivacity Networks, LLC	Greg Benak	greg.benak@ex2technology.com
Vodafone Americas Virginia Inc.	Blair Rosenthal	Blair.rosenthal@vodafone.com
Voxbeam Telecommunications, Inc.	Paul Cusack	pcusack@voxbeam.com
WANRack, LLC	Rob Oyler	rob.oyler@WANRack.com
Waterford Telephone Company	Bruce Davis	waterfordtelephonecompany@gmail.com
Wholesale Carrier Services of Virginia, Inc.	Chris Barton	cbarton@wcs.com
Wide Voice, LLC	Andrew Nickerson	anickerson@widevoice.com
Windstream KDL-VA, Inc.	Becky West**	Becky.West@windstream.com
Woodlawn Communication, LLC	Robbie Payne	rpayne@woodlawn-llc.com
XO Virginia, LLC	Rex Knowles	Rex.knowles@xo.com
YMAX Communications Corp. of Virginia	Mark Pavol	mark.pavol@ymaxcorp.com
Zayo Group, LLC	James Simonelli	regulatorytax@zayo.com